

IN SENATE OF THE UNITED STATES.

FEBRUARY 18, 1848.

Submitted, and ordered to be printed.

Mr. BALDWIN made the following

REPORT:

[To accompany bill S. No. 151.]

The Committee of Claims, to whom was referred the memorial of J. W. Nye, assignee of Peter Bargy, jr., and Hugh Stewart, praying further remuneration for losses sustained in macadamizing Pennsylvania avenue in 1832, report:

That an appropriation was made by act of Congress approved March 3, 1839, to the amount of \$5,645 04, to remunerate Peter Bargy, jr., for loss sustained by him in the necessary performance of his contract made with the government in August, 1832, for macadamizing a large portion of Pennsylvania avenue, in the city of Washington; and that, by act of Congress approved August 31, 1842, the sum of \$6,662 25. was appropriated and allowed to Hugh Stewart, for the loss sustained by him in the necessary performance of his contract with the government in August, 1832, for macadamizing a large portion of Pennsylvania avenue, in the city of Washington, not occasioned by any neglect on the part of the contractor, but by events beyond his control.

The petitioner, who is the assignee of Bargy and Stewart's claims on the government, now represents that the allowance made to said Bargy by the act of 1839 was, by reason of an accidental omission by the counsel who prepared the memorial to exhibit the full amount of said Bargy's expenditures in the performance of his contract, insufficient to compensate him for his loss; and that, as the allowance made to Stewart for loss in the execution of his contract by the act of 1842, on the principle of estimating his expenditures, which he was unable to prove in detail, at the same rate per yard, in the necessary execution of his contract, as had been allowed to Bargy, he also was, by reason of said omission, inadequately paid.

The committee have attentively examined the evidence on file, but they have not been able to ascertain therefrom, in a manner satisfactory to themselves, to what amount the allowance made to said Bargy failed to compensate him for the extraordinary expendi-

tures to which he was subjected by reason of the causes set forth in his memorial. It was not the design of the act of 1839 to make up to the petitioner any loss which he might have sustained by reason of his contract, or the manner of its execution, except so far as he may have suffered from the cholera, and the refusal of the superintendent to indulge him on that account with a reasonable extension of time for its execution, and his interference with the men employed by the contractors in the execution of their work. The committee are of opinion that the claim of the petitioner is so far sustained that it ought to be adjusted on the principle adopted by Congress in the acts of 1839 and 1842, after a more careful examination of the accounts of the contractors, and of the evidence exhibited in their support, than it is in the power of the committee to make, and they therefore recommend the passage of the bill herewith reported for that purpose.

[Transcript of the bill, No. 121.]

The Committee of Claims, to whom was referred the memorial of J. H. Barry, contractor of Peter Barry, Jr., and Hugh Stewart, proposing further compensation for losses sustained in performing the Pennsylvania contract in 1839, report:

That an appropriation was made by act of Congress approved March 3, 1839, for the amount of \$7,000 00, to compensate Barry, Jr., for loss sustained by him in the necessary performance of his contract made with the Government in August, 1837, for maintaining a large portion of Pennsylvania Avenue, in the city of Washington; and that by act of Congress approved August 31, 1842, the sum of \$2,000 00 was appropriated and allowed to Hugh Stewart, for the loss sustained by him in the necessary performance of his contract with the Government in August, 1837, for maintaining a large portion of Pennsylvania Avenue, in the city of Washington, not occasioned by any accident on the part of the contractor, but by events beyond his control.

The petitioner, who is the assignee of Barry and Stewart's claims on the Government, now represents that the allowance made to said Barry by the act of 1839 was, by reason of an accidental omission by the counsel who prepared the memorial to exhibit the full amount of said Barry's expenditures in the performance of his contract, insufficient to compensate him for his loss; and that the allowance made to Stewart for loss in the execution of his contract by the act of 1842, on the principle of estimating his expenditures, which he was unable to prove in detail, at the same rate per yard, in the necessary execution of his contract, as had been allowed to Barry, he also was, by reason of said omission, inadequately paid.

The committee have attentively examined the evidence on file, but they have not been able to ascertain therefrom, in a manner satisfactory to themselves, to what amount the allowance made to said Barry failed to compensate him for the extraordinary expend-